

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS  
Title 3. California Code of Regulations  
Article 4. Containers  
Article 28. Melons, Other Than Cantaloupes

**INITIAL STATEMENT OF REASONS**

**DESCRIPTION OF THE PUBLIC PROBLEM, ADMINISTRATION REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THE REGULATION IS INTENDED TO ADDRESS**

Section 401 of the California Food and Agricultural Code declares that the California Department of Food and Agriculture (Department) shall promote and protect the agricultural industry of California. Section 407 declares that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of the Food and Agricultural Code which he is directed or authorized to administer or enforce.

The proposed changes are intended to address the marketing and shipping needs of the melon industry.

**SPECIFIC PURPOSE AND FACTUAL BASIS**

Section 1380.19, subsection (p) describes the dimensions of six existing standard containers used for melons other than cantaloupes (hereinafter referred to as melons).

The specific purpose of amending Section 1380.19, subsection (p) is to describe the dimensions proposed container 44Q.

Section 1442.7 requires that all melons, except as otherwise provided for, be packed in one of six standard containers.

The specific purpose of amending Section 1442.7 is to adopt 44Q as a new standard container for shipping of melons.

**FACTUAL BASIS FOR THE DEPARTMENT DETERMINING THE NEED FOR THE AMENDMENT OF THESE REGULATIONS:**

Section 42682 of the Food and Agricultural Code gives the Secretary the authority to establish, modify, or rescind by regulation, standard container, lid, marking, sizing requirements for commodities, and packing arrangement for any fruits, nuts, or vegetables, upon receiving a petition from a person that the Secretary finds has a substantial interest.

Thomas R. Oliveri, Manager of Marketing Services for Western Growers Association (WGA), has petitioned the proposed regulation changes on behalf of WGA's grower/shipper members.

WGA represents a substantial amount of the melon industry throughout California.

Western Growers Association cites the following arguments in support of the proposed changes:

The Department of Food and Agriculture has complied with Section 42682 of the Food and Agricultural Code. The Secretary finds that Thomas Oliveri, Manager of Marketing Services for Western Growers Association, an organization representing approximately 3000 growers and packers of California fruits and vegetables, is a person who has a substantial interest in the melon industry.

### **DOCUMENTS RELIED UPON**

- Letter dated March 1, 2004 from Thomas Oliveri, Manager, Marketing Services, Western Growers Association.
- List of Experimental Container Permits.

### **ALTERNATIVES**

The Department must determine that no alternative considered by the Department would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations.

### **ESTIMATED COSTS OR SAVINGS TO PUBLIC AGENCIES OR AFFECTED PRIVATE INDIVIDUALS OR ENTITIES**

The Department has initially determined that no savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department has also determined that these proposed regulations do not impose a mandate on local agencies or school districts.

### **SMALL BUSINESS IMPACT STATEMENT**

The Department has initially determined that the proposed changes in the regulations would result in no significant added costs to small businesses affected by these proposed changes. This is based on the fact that the proposal offers an additional alternative for shipping melons, a new standard container that meets the needs of the affected commodity groups without requiring change on the part of industry.

### **ECONOMIC IMPACT ON AFFECTED BUSINESSES**

The Department has initially determined that the proposed regulations would result in no

significant costs to private businesses or individuals affected by these proposed regulations. This is based on the fact stated in the SMALL BUSINESSES IMPACT STATEMENT.”